

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7280
BILL NUMBER: SB 559

NOTE PREPARED: Jan 17, 2013
BILL AMENDED:

SUBJECT: Fraud.

FIRST AUTHOR: Sen. Hershman
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill sets forth the Medicaid ineligibility time frame for a person who is convicted of forgery, fraud, legend drug deception, and other deceptions related to the application for or receipt of Medicaid assistance.

Effective Date: July 1, 2013.

Explanation of State Expenditures: The bill would allow persons convicted of Medicaid fraud one or two times to receive Medicaid services sooner than is provided for in current statute. The fiscal impact of this provision would depend on individual circumstances, sentences, and the number of persons convicted of forgery, fraud, legend drug deception, and other deceptions related to the application for or receipt of Medicaid assistance. Family and Social Services Administration data indicates that nine individuals were convicted of Medicaid member fraud in CY 2011.

The existing Class A misdemeanor applies to welfare fraud convictions of first-time offenders that involve public assistance amounts of less than \$250. All other existing criminal penalties applying to amounts of welfare fraud over \$250 constitute Class D or Class C felonies. The bill adds legend drug deception to the offenses for which Medicaid eligibility shall be suspended. Legend drug deception penalties are Class D and Class C felonies unless the commission results in death, in which case it is a Class A felony. Persons with convictions for forgery, fraud, legend drug deception, and other deceptions related to the application for or receipt of Medicaid assistance would be ineligible to receive medical assistance for: (1) 1 year for a first offense; (2) 2 years for a second offense; and (3) 10 years if the conviction is for a third or subsequent offense. Convictions for Medicaid member fraud appear to be limited. There were 11 such offenses in CY 2010 and

nine in CY 2011, so the most likely period of ineligibility would be one year.

The bill would also allow the Office of Medicaid Policy and Planning (OMPP) to adopt rules establishing a process to suspend a person from receiving medical assistance if a reasonable suspicion exists that the person engaged in welfare fraud. OMPP should be able to promulgate rules within the level of resources currently available. If an investigation determines that an individual fraudulently applied for or received public assistance and criminal prosecution is not an available avenue to pursue, an administrative hearing may be an appropriate process to order restitution and disqualify recipients from receiving benefits. The level of resources required to implement an administrative hearing process would depend on the rules promulgated and the number of cases that might be heard.

Background: OMPP reported that in CY 2010, 138 Medicaid member fraud cases were substantiated by the Bureau of Investigations within the Family and Social Services Administration (FSSA). Of the total, 24 cases were prosecuted with 11 receiving felony convictions. The court ordered restitutions of \$24,554.

OMPP reported that in CY 2011, 24 Medicaid member fraud cases were substantiated by the Bureau of Investigations within FSSA. Of the total, 12 cases were prosecuted with 9 receiving felony convictions. The court ordered restitutions of \$122,518.

OMPP reported that the agency cannot prosecute cases, being dependent on local prosecutors to take the cases. Further, the OMPP may not have sufficient evidence to meet the prosecutorial level needed to file a case in court.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 33% for most services. Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 67%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%.

Explanation of State Revenues:

Explanation of Local Expenditures: Township poor relief may have fewer requests to furnish medical goods or services for indigent persons under suspension of eligibility for Medicaid benefits. See *Explanation of State Expenditures* above.

Explanation of Local Revenues:

State Agencies Affected: OMPP and Division of Family Resources, FSSA.

Local Agencies Affected:

Information Sources: FSSA.

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